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### **Proposals for a Future Systems Operator Role Consultation**

SSEN Distribution (SSEN) delivers electricity to over 8 million people in 3.8 million households and businesses in the north of Scotland and central southern England. Our core purpose is to power communities today and create a net zero tomorrow. We deliver electricity that powers communities in a safe and reliable way. This is achieved through responsible stewardship of our networks, helping to keep the lights on and investing efficiently in new and existing network infrastructure for the benefit of our customers.

We appreciate the opportunity to provide input to this consultation. A full response to all questions in the consultation has been provided by SSE group. In addition to that response, in this cover letter we provide a summary of the key points from a SSEN Distribution perspective.

Facilitating net zero at lowest cost to consumers will require a step change in how the energy system is operated and managed. We are already starting to make the investments and business changes needed to play our role in meeting this challenge and our draft RIIO-ED2 business accelerates this in order to deliver high quality service to our customers at affordable cost.

### **Proposals on the new roles for a FSO:**

To meet the objective of delivering net zero at lowest cost to customers, we agree that it may be appropriate for the ESO to have a greater role in certain areas. However, the consultation is high level and further work is needed to really understand what those roles look like and how they work in practice. We provide some specific comments below on the new roles mentioned in the consultation:

- **System planning and network development:** We can see benefits in greater co-ordination of network planning across gas and electricity, particularly around planning to deliver net zero. However, we do not support the proposal for an FSO to critically evaluate investment proposals as part of the price control process. This role must remain with Ofgem;
- **Co-ordination with Distribution networks:** We are already seeing some complex interplays between the operation of the Transmission and Distribution systems in our region and are actively working with the ESO on regional development plans. It would be helpful to clarify and formalise these co-ordination roles so that responsibility and accountabilities are clear. However, we are concerned by the proposal for the FSO to potentially take on DSO functions in the future. The ESO does not have the required knowledge or experience of distribution network operation to take on DSO functions and with the whole system planning and operation obligations already enshrined in network operator licences it is unclear what value an FSO would bring to this area. Ofgem's RIIO-ED2 Sector Specific Methodology Decision places a clear requirement on each DNO to deliver DSO functions to meet Ofgem's minimum requirements. There is a risk of mixed messages between RIIO-ED2 policy and system operation policy which risks undermining investments;
- **Heat and Transport decarbonisation:** We agree that system planning needs to be more closely integrated with local energy planning. As part of our RIIO-ED2 business plan we are investing in specific resources to engage with local authorities and integrate local energy plans into our system planning. We support an FSO also taking a role here to ensure a joined-up approach with DNOs and local authorities;
- **Data:** We support an FSO having a role on co-ordinated data exchange and requirements for data capture and standards;
- **Future system operability:** We agree that an FSO should have a role in assessing energy system performance against an operability framework. We do not support an FSO acting as an Integrated Rule Making Body as these types of decisions need to sit with parties who are clearly accountable for decisions and where there is right of redress through appeal i.e. Ofgem;
- **Advisory role:** We are concerned over the prospect of an FSO having a formal advisory role to inform policy and regulatory decisions. This should be BEIS and Ofgem's role, where there is clear accountability and the right of appeal in respect of decisions taken. While an FSO's views will no doubt have a strong role in informing decisions, they should be treated in the same way as others within the energy market. Regardless of the governance arrangements in place, a body predominantly responsible for system operation will naturally

always give advice which reflects its role. Therefore, giving an FSO a special advisory role risks elevating the role of system operation above other roles in the energy system;

- **Dispute resolution:** We do not agree with the proposal for an FSO to take on dispute resolution roles. As highlighted above, it is important that parties have full redress and rights of appeal on decisions taken. We believe that this means that they must continue to sit with Ofgem. We also believe this position is incompatible in the event there was a dispute with an FSO. Regardless of the governance arrangements, this does not seem to be good practice and dispute resolution for all licensed entities should follow the same path via the regulator; and
- **Energy market design:** We are concerned about the proposal for an FSO to take on a greater role in the design of energy markets. This is clearly BEIS and Ofgem's role, organisations who are responsible to government and stakeholders for policy implementation, and we consider that any role for an FSO would blur the lines between the different parties. Good policy making relies on clear accountability for decisions and the right of appeal and it is not clear how this would be maintained under the proposals, nor can we see how it would be appropriately accountable without significant overhaul of the functions of Ofgem and BEIS and the FSO, as proposed.

## Governance

### The case for an independent FSO:

We do not consider that the consultation makes the case for a fully independent FSO, for a number of reasons detailed below.

**Lack of clarity on governance arrangements:** There is a lack of clarity on how day-to-day governance will be managed within the new entity. This includes areas such as licencing arrangement; the appointment of board roles, both executive and non-executive; and reporting arrangements. Without this detail it is difficult to assess the effectiveness of the proposed arrangements.

**Lack of clarity on regulatory arrangements:** Limited detail has been provided on how the ESO's RIIO-2 regulatory and incentive framework may need to evolve to accommodate taking on new roles. Taking on additional roles must not be done without the appropriate checks and balances. Given the scale of change proposed, regulatory model design cannot be left until the start of the next RIIO cycle. The RIIO model may prove to be inefficient for the ESO to provide the protection consumers require going forward and a comprehensive review must be undertaken to give confidence that new roles are supported by the right regulatory framework. Further, there is little detail on how the regulatory framework could differ if the FSO was

publicly vs. private owned, in particular, the role and independence of a government body like Ofgem potentially regulating another publicly owned body. This cannot be an afterthought to any decision on ownership. The FSO must be held to no less a standard than it is today through the RIIO-2 model if it becomes a publicly owned body

**The need for independence:** As stated above, we do not believe that new roles such as dispute resolution, advisory role and Energy Market Design should form part of the remit of a proposed FSO. If these roles are not part of the remit of the FSO, it removes the need for total independence. We consider that the remaining new roles could be performed by the ESO, potentially with a strengthened independent audit process to provide assurance that decisions are made on an independent basis. This audit could be mandated by licence. We consider that this model could bridge the gap needed to help deliver net zero at lowest cost, while keeping roles and responsibilities and accountability clear and avoiding the inevitable disruption and additional cost that the creation of a new entity and the entailing significant change across the industry would generate;

**The effectiveness of increased independence:** In addition, we would stress that regardless of its level of independence, there will be an inevitable bias in the FSO's advice and views which reflect its primary role as the transmission system operator. Innately, it will come to any problem firstly from that perspective, or at least be perceived to do so, and may not fully appreciate or be aware of other perspectives in the energy industry. This cannot be solved through governance arrangements around the FSO alone and is the principle reason why we are concerned over some of the more policy facing and dispute resolution roles proposed. Further, were it to undertake these roles, the accountability currently in place for Ofgem and BEIS would not be transferred and therefore the appropriate means of engagement, challenge and appeal would not be accessible; and

**Robustness of the Impact Assessment:** We do not agree that the case for an independent FSO has been made in the consultation. It is predicated on the perception that the current ESO has a conflict of interest within its operational decision making. The consultation makes clear that there is no evidence that the ESO has acted on this conflict. The analysis and Impact Assessment results presented in the consultation document are based on qualitative assumptions that this potential conflict will be acted on rather than any evidence. We feel that decisions on policy changes must be based on evidence and not on qualitative assumption.

### The case for a publicly owned FSO

We do not think that the consultation makes the case for a publicly owned FSO, for the following reasons

**Risk of political interference:** We have concerns that if an FSO was set up as a largely independent public body, it could become a tool to deliver short term political objectives by the government of the day, rather than having the long term focus required to meet the climate change goals that have been set.

**Strong track record of private ownership:** We would also highlight that the GB energy industry has a strong track record over the last 30 years of private ownership in a regulated operating environment, driving efficient investment and improving performance for customers. Incentive based regulation has been proven to work and is best placed to help deliver net zero at lowest cost, so long as roles and responsibilities are clear, and companies can control their performance.

Yours sincerely

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